

**Coburn Amendment 1355 to S. 744 — To identify and remove deportable criminal aliens incarcerated in correctional facilities in the United States.**

This amendment would require DHS to identify removable criminal aliens incarcerated in federal, state, and local correctional facilities and ensure they are deported following completion of their sentence.

Under current law, there is no requirement that this be done, which leaves DHS with too much discretion.

**DHS has the ability to detect and deport illegal aliens who commit serious crimes.**

Currently, a program exists within the Department of Homeland Security (DHS) called the Criminal Alien Program (CAP).

CAP is operated through Immigration and Customs Enforcement (ICE), and its purpose is to:

- 1) **identify** criminal aliens incarcerated in federal, state, and local facilities;
- 2) **evaluate** if these aliens can be removed at the end of their sentences; and
- 3) **coordinate** transition from prison to deportation proceedings so that criminal aliens are not released back into society.

Under the CAP program, ICE agents gather biometric and biographic information to identify and process deportable criminal aliens.<sup>1</sup>

They use this information to hold incarcerated aliens for a short time once they are eligible for release from jails and prisons.<sup>2</sup>

CAP decreases or eliminates the time spent in ICE custody, thereby reducing program costs and ensuring dangerous criminals are removed from the United States.

---

<sup>1</sup> <http://www.ice.gov/criminal-alien-program/>

<sup>2</sup> <http://www.ice.gov/criminal-alien-program/>

Congress has appropriated more than \$1.4 billion in funding for CAP since efforts began in 2004—including \$216.7 million in FY 2013 and \$196.7 million in FY 2012. However, there has never been a full evaluation of all potentially deportable criminals.

Furthermore, there are no existing metrics to determine how effectively or efficiently the program operates.

This amendment requires DHS to fully evaluate the federal prison population for removable criminal aliens within one year, and to fully evaluate state and local prison populations within three years.

It authorizes the Department of Justice (DOJ) to withhold certain grant funds from states or localities that refuse to coordinate with DHS officials to evaluate their prison populations. This includes the State Criminal Alien Assistance Program (SCAAP), which reimburses states for a portion of the cost of incarcerating/processing illegal aliens

Finally, the amendment requires DHS to report to Congress on the progress of CAP each year.

Currently, information on incarcerated criminal aliens is outdated and inconsistent.

According to the Congressional Research Service (CRS), “Despite the interest in criminal aliens, inconsistencies in data quality, data collection, and definitions make it impossible to precisely enumerate the criminal alien population.”<sup>3</sup>

**DHS should be *required* to deport criminal aliens, and not simply be *allowed* to do so.**

While this program is responsible for the deportation of violent and dangerous criminals, there are gaps in the system.

---

<sup>3</sup> [http://www.crs.gov/pages/Reports.aspx?PRODCODE=R42057&Source=ibc#\\_Toc345075477](http://www.crs.gov/pages/Reports.aspx?PRODCODE=R42057&Source=ibc#_Toc345075477)

This amendment places CAP in statute, requires the program to operate in all federal, state, and local correctional facilities, and sets a reasonable timeline for full implementation by DHS.

The amendment also includes the important requirement that criminal aliens identified as deportable by CAP are indeed deported upon completion of their prison sentence or final removal proceedings.

**Requiring ICE to deport criminal aliens would save money and better secure our nation.**

According to the Federal Bureau of Prisons, in 2009—the last year data was available—approximately 27 percent of federal inmates were not U.S. citizens.

The cost of federal incarceration for these alien inmates is estimated at \$1.2 billion per year.<sup>4</sup>

According to the Bureau of Justice Statistics, non-citizens comprised 4.5 percent of the state prison population and 7.8 percent of the local jail population in 2009.<sup>5</sup>

Congress has an obligation to ensure these criminal aliens are not simply released back into society after American taxpayers have been burdened with the enormous cost of incarceration.

This amendment builds on the progress of CAP by requiring DHS to evaluate every incarcerated alien, thereby increasing the likelihood that criminal aliens are not released into society.

Without full expansion of CAP into every federal, state and local prison facility, criminal aliens will undoubtedly slip through the cracks and be released back into American neighborhoods.

---

<sup>4</sup> HARLEY G. LAPPIN, DIRECTOR FEDERAL BUREAU OF PRISONS, STATEMENT BEFORE THE SENATE COMMITTEE ON THE JUDICIARY, September 19, 2006: Average daily cost per inmate is \$64.19. Total number of BOP inmates is 192,000.

<sup>5</sup> [http://www.crs.gov/pages/Reports.aspx?PRODCODE=R42057&Source=ibc#\\_Toc345075477](http://www.crs.gov/pages/Reports.aspx?PRODCODE=R42057&Source=ibc#_Toc345075477)